argument in favor of the result is that it prevents duplication of legal proceedings. In the principal case, the result is reached without injustice. The claims of the parties arose in the same transaction, and both would require the same evidence and witnesses. Both parties have evinced their readiness to bring their cases to trial at this time. But the decision cannot be supported on authority. See *Woody* v. *Jordan*, 69 N. C. 189; *Asher* v. *Reizenstein*, 105 N. C. 213, 10 S. E. 889. And a general application of a rule compelling counterclaim would be unjust. A plaintiff is not compelled to join two causes of action against the same defendant. *Brunsden* v. *Humphrey*, 14 Q. B. D. 141; *Reilly* v. *Sicilian Asphalt Paving Co.*, 170 N. Y. 40, 62 N. E. 772. There would seem an even greater hardship in always compelling a defendant to try his cross action at the place of the plaintiff's choosing.

ADMIRALTY — JURISDICTION — EQUITABLE JURISDICTION — ACCOUNTINGS. — By the terms of a charter party, a demise of two ships for a term of years, the charterer was to pay the owner a certain sum each month and one half the net earnings after deducting these sums. At the end of the period the charterer was to return the ships in good repair with an equal amount of furniture and apparel. In a libel for the breach of the charter party it appeared that an accounting was incidentally involved. *Held*, that admiralty has jurisdiction. *Metropolitan S. S. Co.* v. *Pacific-Alaska Navigation Co.*, 260 Fed. 973 (Dist. Ct. S. D. Me.).

In adjusting the rights of litigants, courts of admiralty proceed on equitable principles. They may deny full recovery to a sailor guilty of misconduct during the voyage in which the wages in dispute were earned. *Macomber v. Thompson*, 1 Sumn. 384. And they may refuse to entertain libels in tort for assault when the libellants because of their wrongful conduct could recover only trivial damages. *Barnett* v. *Luther*, 1 Curtis, 434. Where, however, the relief asked in its nature involves the exercise of equitable jurisdiction, admiralty refuses to act. It does not, therefore, entertain a bill for the reformation of an instrument. *Williams* v. *Prov. Co.*, 56 Fed. 159. Nor does it adjudicate a libel brought mainly for an accounting, however simple. *Martin* v. *Walker*, Abb. Adm. 579; *The Zillah May*, 221 Fed. 1016. But if the accounting is incidental to the main cause of action, maritime in nature, admiralty gives complete relief, even if, as in the principal case, the accounting seems complex. *The Emma B.*, 140 Fed. 771. On principle, there is no reason why admiralty, in spite of its pride in its simple procedure, should make this distinction. Indeed, admiralty is obviously a court better fitted than equity to take jurisdiction of accountings arising out of maritime transactions. However, this distinction seems firmly established by judicial decision.

APPEAL AND ERROR — APPELLANT'S RIGHT OF DISMISSAL DENIED WHERE PREJUDICIAL TO APPELLEE. — The plaintiff in a replevin suit appealed from an adverse judgment in a county court to the district court. By statute the latter court had jurisdiction to try the cause *de novo*. (1907 NEB. COMP. STAT., § 7514.) By an order of the district court, he also regained possession of the chattel which had been restored to the defendant by execution on the county court's judgment. Five months later, the plaintiff, against the objection of the defendant, moved to dismiss the appeal and claimed an absolute right to have the motion granted. There is a statute providing that an appellant may dismiss without the consent of the appellee at any time before submission. (1913 NEB. REV. STAT., § 8547.) *Held*, that the motion to dismiss be denied. *Lemer* v. *Hunyak*, 175 N. W. 605 (Neb.).

Even in the absence of statute, the appellant has a right to have his appeal dismissed. *Hart* v. *Minneapolis, St. Paul, etc. Ry. Co.*, 122 Wis. 308, 99 N. W. 1019; *Derick* v. *Taylor*, 171 Mass. 444, 50 N. E. 1038. But this right is sub-

ject to the discretion of the court and must be exercised through its order. *In re City of Seattle*, 40 Wash. 450, 82 Pac. 740; *Cloak Co.* v. *Oreck*, 134 Minn. 464, 157 N. W. 327. Before the court will allow the appellant to withdraw its appeal, it must be satisfied that no prejudice will thereby result to the appellee. This prejudice may consist in the loss of some right to which appellee has become entitled by reason of the appeal. *Acequia Madre* v. *Meyer*, 17 N. M. 371, 128 Pac. 68; *Sweeney* v. *Coulter*, 109 Ky. 295, 58 S. W. 784. In the principal case, the court properly held that the appellant's statutory right is not absolute, but is merely declaratory of the right to dismiss which would have existed independently of the statute. Sufficient ground for denying the motion is to be found in the fact that the appeal gave the district court original jurisdiction by virtue of which it might have assessed larger damages for the appellee than those secured in the lower court. See *Yell* v. *Outlaw*, 14 Ark. 164, 165; *McKinley* v. *Wilmington, etc. Co.*, 7 Ill. App. 386, 390. On principle, stay of execution in itself, if it involves damage to the appellee, should bar appellant's right of dismissal.

ATTORNEYS — RELATION BETWEEN ATTORNEY AND CLIENT — ADVICE OF ATTORNEY TO A DESERTER AS ASSISTANCE UNDER A STATUTE. — The defendant, an attorney, was consulted by a sixteen year old deserter from the army, and by his father, who wished to secure the son's release from military service. The attorney advised the boy to remain away from the authorities, to leave the state, and if apprehended, to deny his identity. A federal statute made it a crime to "harbor, conceal, protect, or assist any soldier . . . who may have deserted" from the military service of the United States, "knowing him to have deserted" (35 STAT. AT L. 1097). The defendant was indicted under this statute, and from a verdict of guilty and judgment thereon he appealed. *Held*, that the judgment be reversed. *Firpo* v. *United States*, 52 Chicago Leg. News, 210 (Circ. Ct. App.).

The duty of an attorney toward his client is limited by a counter duty as an officer of the court not to perpetrate any fraud upon the court, nor to obstruct the administration of justice, nor to bring the court into contempt by advising a client to disobey its orders. *In re Dubose*, 109 Fed. 971; *Leber* v. *United States*, 170 Fed. 881. See 30 HARV. L. REV. 642. While the conduct of the attorney here was therefore unprofessional, he was not guilty of the crime charged unless the advice given was equivalent to assistance. Advice has been characterized as mere words, as distinguished from assistance, which implies some affirmative act in aid of the principal. *Wiley* v. *McRee*, 2 Jones (N. C.), 349. But an accessory has been defined as one who procures, advises, or assists. *United States* v. *Wilson*, 28 Fed. Cas. 699. And the test of whether one is an accessory seems to be the rendering of some personal help to the principal to elude punishment. *Loyd* v. *The State*, 42 Ga. 221. Advice which points out ways and means of escape may be far more valuable to a criminal than the loan of a horse or money, which will make the lender an accessory. Accordingly, such advice as was given in the principal case ought to have been held to constitute assistance, and to make the advising attorney guilty of the crime created by the statute.

ATTORNEYS — RELATION BETWEEN ATTORNEY AND CLIENT — PROCEEDING IN *QUO WARRANTO* DISMISSED BECAUSE STATE'S ATTORNEY DISQUALIFIED. — An information in the nature of *quo warranto* was filed in the name of the state, on the relation of third persons, by the state's attorney against the members of a board of education because of alleged irregularities in the establishment of the school district. The defendants pleaded that the now state's attorney had acted as their attorney in the organization of the school district and that he was estopped to present and file this information. A de-